

REMARKS

Status of the Claims

Claims 1-14 are pending in this application. Claims 10-14 have been previously allowed.

In the Decision on Appeal of July 16, 2008, the Board of Patent Appeals and Interferences reversed the prior rejection of claims 1-9. However, in that decision the Board issued a new ground of rejection pursuant to 37 C.F.R. § 41.50(b) under 35 U.S.C § 102(b). In response, Applicant has amended claim 1 and cancelled claim 5 to overcome the rejection. Therefore, Applicant believes the application is in condition for allowance and respectfully requests action to that end.

New Rejections under 35 U.S.C. § 102(b)

In the Decision on Appeal of July 16, 2008, the Board first rejected claim 1 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 1,954,554 to Angier. (Hereinafter "Angier '554"). Additionally the Board suggested that U.S. Patent No. 2,003,988 to Angier also anticipates claim 1. (Hereinafter "Angier '988"). No other claims were rejected.

Applicant has amended claim 1 to recite an element not disclosed in either Angier '554 or Angier '988. Specifically, claim 1 has been amended to incorporate the limitations of claim 5, namely a "means for temporarily adhering at least a portion of said primary portion to the slab." Claim 5 has been cancelled. The claimed "means for temporarily adhering" ensures that the slab protector is held in position when being buffeted by wind or briefly contacted by a surface-finishing tool. The adherence is temporary, allowing the slab protector to be removed once the finishing operation is complete.

No such means for temporarily adhering is disclosed in either of the Angier references. Angier '554 discloses a concrete curing cover in the form of parallel strips 1, 2, 3, that assists in the even drying of a concrete road surface. The cover is held in place upon the slab (20) by piling earth (22) upon the flanges

(10) at the end of the strips. See, p. 1, lines 105-107. It is noted that Angier '554 only contemplates holding the cover strips in place by applying a force to the side flanges. Claim 1 recites that the means or adhering adheres the primary portion of the slab protector to the slab, not the overhang, or side, portion. Angier '554 does not disclose any adhesion between the cover and the slab itself. Angier '554 discloses the use of an adhesive to unit the adjacent edges of cover strips. See, p. 1, lines 60-66, 77-81. However, this adhesion is between the various portions of the cover and not between the cover and the slab.

Similarly, Angier '988 discloses a protective mat formed by a plurality of strips 2, 3 and 4, that are joined together. The cover of Angier '988 is held against wind displacement or otherwise by a pair of slats 16, 17, 18, 19. See, p. 2, col. 1, line 35. The slats overlap or interlock to apply a "stretching strain" to the length of the mat to keep the mat "stretched crosswise across the concrete." No means for temporarily adhering is provided to secure the cover directly to the slab.

Since neither Angier reference discloses every limitation set forth in amended claim 1, they cannot anticipate this claim. Moreover, although both references show an awareness of adhesive, the adhesive is only used to combine strips of the cover or mat. In order to hold the cover in place, Angier '554 relies upon piling earth against the side flanges. Angier '988 relies upon an interlocking arrangement of slats. In neither case is there any suggestion to modify the disclosed covers to include a "means for temporarily adhering" the primary portion of the cover to the slab.

It is therefore believed that independent claim 1 and its dependent claims 2-4 and 6-9 are patentable over the newly cited Angier references. Moreover, it is believed that the dependent claims are independently patentable over the cited art. For instance, claim 3 defines a fold line to facilitate folding the protector sheet to form the overhang. In Angier '988 the side flanges 5 and 6 are pre-formed into the cover so no fold line is required. Likewise, in Angier '554 the side

flanges are affixed to the ends of the strips and are later bent downward. No fold line is disclosed in either reference.

Dependent claims 6-9 further define the means for temporarily adhering. Since neither Angier reference discloses a means for temporarily adhering the two references certainly does not disclose the structural limitations recited in these claims.

Conclusion

For the reasons set forth above, all pending claims are believed to be patentable over all references of record. Allowance of all pending claims is earnestly solicited.

Respectfully submitted,

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